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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

GROUP 3600

In re Application of:

JOHN R. STEWART

Serial No.: 10/060,565

Filed: 1/30/2002

For: METHOD AND APPARATUS FOR
SIGHTING AND TARGETING A
CONTROLLED SYSTEM FROM A
COMMON THREE-DIMENSIONAL
DATA SET

Group Art Unit: 3641

Examiner: STEPHEN JOHNSON

Atty. Dkt. No.: 2063.003600

4/Election
10/8/03
Hawes

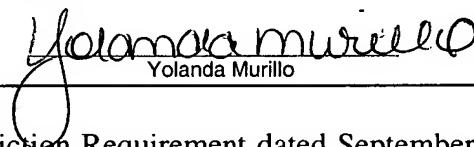
RESPONSE TO RESTRICTION REQUIREMENT DATED SEPTEMBER 16, 2003

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

CERTIFICATE OF MAILING 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 3, 2003.


Yolanda Murillo

This paper is submitted in response to the Restriction Requirement dated September 16, 2003 for which the date for response is October 16, 2003.

It is believed that no fee is due; however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to this document, the Assistant Commissioner is authorized to deduct said fees from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2063.003600/JAP.

In response to the restriction requirement which the Examiner imposed, Applicant elects, with traverse, to prosecute claims 11-24 and 31-43, *i.e.*, the Group I claims. Because Applicant has elected one of the groups as defined by the Office and identified the claims therein, this paper is fully responsive. Applicant notes that claims 31-43 are written in means-plus-function

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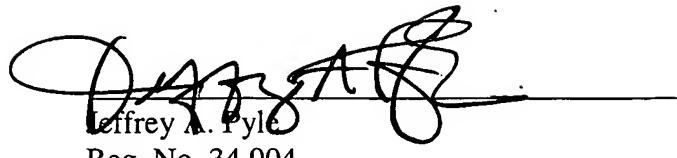
format and are therefore considered “linking claims” such that, if allowed, the Group II claims must be allowed. M.P.E.P. § 806.05 (e). Applicant therefore retains claims 1-10, 25-30, and 44-46 in the case. *See* M.P.E.P. § 809.04.

Applicant traverses the restriction requirement because it embodies a misconstruction of the apparatus claims. The Office supported the restriction requirement by saying that “the process could be used absent a magnetic storage medium or with a different type of storage medium.” Claim 11 recites only “a program storage medium”, and does not limit the nature of that medium to magnetic. Indeed, claim 12 specifically limits the “program storage medium” of claim 11 to either “a magnetic program storage medium or an optical program storage medium.” Claim 31 does not recite a program storage medium of any kind. Claim 35 recites “means for storing a three-dimensional data set representing a field of view.” The specification, at p. 7, lines 3-5, affirmatively states that the storage may be “...may be implemented in a magnetic (e.g., a floppy disk or a hard drive), or optical (e.g., a compact disk read only memory, or “CD ROM”) medium and may be read only or random access.” Thus, none of the independent apparatus claims is limited to a “magnetic program storage medium,” and the reasoning underlying the restriction is wrong.

The Examiner is invited to contact the undersigned attorney at (713) 934-4053 with any questions, comments or suggestions relating to the referenced patent application.

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Respectfully submitted,



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Date: October 3, 2003

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